

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7480 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

LIQUID CONTROLS INDIA PVT LTD

Versus

UNION OF INDIA

Appearance:

MR MIHIR H JOSHI for Petitioners
MR JAYANT PATEL for Respondents.

CORAM : MR.JUSTICE J.N.BHATT and
MR.JUSTICE H.K.RATHOD

Date of decision: 28/09/1999

ORAL JUDGEMENT

Rule, service of which is waived by learned advocate Mr Jayant Patel for the respondents. In the peculiar facts and special circumstances and upon joint request, this petition is taken up for final hearing today, itself.

It is noticed by us that the main grievance of the petitioner Company is against the inaction in non-hearing

of the application for stay pending the appeal by the appellate authority and at the same time taking recourse to coercive action so as to effect the recovery of the central excise dues. There is no controversy about the fact that the stay application has, yet, not been decided. In many such similar matters, this Court has taken the view that the stay application should be decided and until it is determined, obviously, no coercive action should be initiated against the assessee. Reliance is also placed by the petitioner on a decision of this Court in D.C.W. vs. Commissioner of Appeals, reported in 1997(2) GLR 913.

In the light of the earlier orders recorded by this Court in similar matters and the facts of the present case, the respondent authority is directed to dispose of the stay application pending appeal within a spell of six weeks from the date of receipt of writ from this Court and until the stay application is determined, the authorities shall not take any coercive measures.

In the result, the petition shall, accordingly, stand allowed. Rule is made absolute to that extent, with no order as to costs.

Office is directed to transmit the writ immediately to the department concerned.

Direct service is permitted.

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